

## Food and Nutrition Service, USDA

## § 225.16

(viii) Neither the invitation to bid nor the contract provides for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(ix) Nonfood items are excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(x) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, are submitted to the State agency prior to the beginning of Program operations;

(xi) Copies of all bids received are submitted to the State agency, along with the sponsor's reason for choosing the successful bidder; and

(xii) All bids in an amount which exceeds the lowest bid and all bids totaling \$100,000 or more are submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(5) Each food service management company which submits a bid over \$100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(6) Each food service management company which enters into a food service contract for over \$100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract, as determined by the State agency, of the value of the contract for which the bid is made. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of the contracts exceeds \$100,000. Sponsors shall require the food service management company to furnish a copy of the performance bond within ten days of the awarding of the contract.

(7) Food service management companies shall obtain bid bonds and performance bonds only from surety com-

panies listed in the current Department of the Treasury Circular 570. No sponsor or State agency shall allow food service management companies to post any "alternative" forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts.

(i) *Other responsibilities.* Sponsors shall comply with all of the meal service requirements set forth in § 225.16.

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13470, Apr. 10, 1990; 61 FR 25553, May 22, 1996; 64 FR 72486, Dec. 28, 1999; 64 FR 72898, Dec. 29, 1999; 65 FR 82251, Dec. 28, 2000; 66 FR 2202, Jan. 11, 2001]

### § 225.16 Meal service requirements.

(a) *Sanitation.* Sponsors shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Sponsors shall ensure that adequate facilities are available to store food or hold meals. Within two weeks of receiving notification of their approval, but in any case prior to commencement of Program operation, sponsors shall submit to the State agency a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.

(b) *Meal services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplements, referred to from this point as "snacks". No sponsor may be approved to provide more than two snacks per day. A sponsor may only be reimbursed for meals served in accordance with this section.

(1) *Camps.* Sponsors of camps shall only be reimbursed for meals served in camps to children from families which meet the eligibility standards for this Program. The sponsor shall maintain a copy of the documentation establishing the eligibility of each child receiving meals under the Program. Meal service at camps shall be subject to the following provisions:

(i) Each day a camp may serve up to three meals or two meals and one snack;

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(ii) Residential camps are not subject to the time restrictions for meal service set forth at paragraphs (c) (1) and (2) of this section; and

(iii) A camp shall be approved to serve these meals only if it has the administrative capability to do so; if the service period of the different meals does not coincide or overlap; and, where applicable, if it has adequate food preparation and holding facilities.

(2) *NYSP Sites.* Sponsors of NYSP sites shall only be reimbursed for meals served to enrolled NYSP participants at these sites.

(3) *Restrictions on the number and type of meals served.* Food service sites other than camps and sites that primarily serve migrant children may serve either:

(i) One meal each day, a breakfast, a lunch, or snack; or

(ii) Two meals each day, if one is a lunch and the other is a breakfast or a snack.

(4) *Sites which serve children of migrant families.* Food service sites that primarily serve children from migrant families may be approved to serve each day up to three meals or two meals and one snack. These sites shall serve children in areas where poor economic conditions exist as defined in §225.2. A sponsor which operates in accordance with this part shall receive reimbursement for all meals served to children at these sites. A site which primarily serves children from migrant families shall only be approved to serve more than one meal each day if it has the administrative capability to do so; if the service period of the different meals does not coincide or overlap; and, where applicable, if it has adequate food preparation and holding facilities.

(c) *Time restrictions for meal service.* (1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between

lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.

(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

(3) Meals served outside of the period of approved meal service shall not be eligible for Program payments.

(4) Any permanent or planned changes in meal service periods must be approved by the State agency.

(5) Meals which are not prepared at the food service site shall be delivered no earlier than one hour prior to the beginning of the meal service (unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations) and no later than the beginning of the meal service.

(6) The sponsor shall claim for reimbursement only the type(s) of meals for which it is approved under its agreement with the State agency.

(d) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors shall ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program. Children age 12 and up may be served larger portions based on the greater food needs of older boys and girls.

(1) *Breakfast.* The minimum amount of food components to be served as breakfast are as follows:

Food components	Minimum amount
<b>Vegetables and Fruits</b>	
Vegetable(s) and/or fruit(s) or .....	½ cup. <sup>1</sup>
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruits(s), and juice.	½ cup (4 fluid ounces).

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Food components	Minimum amount
<b>Bread and Bread Alternates<sup>2</sup></b>	
Bread or .....	1 slice.
Combread, biscuits, rolls, muffins, etc. or .....	1 serving. <sup>3</sup>
Cold dry cereal or .....	¾ cup or 1 ounce. <sup>4</sup>
Cooked cereal or cereal grains or .....	½ cup.
Cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
<b>Milk<sup>5</sup></b>	
Milk, fluid .....	1 cup (½ pint, 8 fluid ounces).
<b>Meat and Meat Alternates (Optional)</b>	
Lean meat or poultry or fish or .....	1 ounce.
Alternate protein product <sup>6</sup> or .....	1 ounce.
Cheese or .....	1 ounce.
Egg (large) or .....	½.
Cooked dry beans or peas or .....	¼ cup.
Peanut butter or an equivalent quantity of any combination of meat/meat alternate or .....	2 tablespoons.
Yogurt, plain or flavored, unsweetened or sweetened .....	4 ounces or ½ cup.

<sup>1</sup> For the purposes of the requirement outlined in this table, a cup means a standard measuring cup.  
<sup>2</sup> Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.  
<sup>3</sup> Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.  
<sup>4</sup> Either volume (cup) or weight (ounces), whichever is less.  
<sup>5</sup> Milk shall be served as a beverage or on cereal or used in part for each purpose.  
<sup>6</sup> Must meet the requirements in appendix A of this part.

(2) *Lunch or supper.* The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
<b>Meat and Meat Alternates</b>	
Lean meat or poultry or fish or .....	2 ounces.
Alternate protein products <sup>1</sup> or .....	2 ounces.
Cheese or .....	2 ounces.
Egg (large) or .....	1.
Cooked dry beans or peas or .....	½ cup. <sup>2</sup>
Peanut butter or soy nut butter or other nut or seed butters or .....	4 tablespoons.
Peanuts or soy nuts or tree nuts or seed <sup>3</sup> or .....	1 ounce=50%. <sup>4</sup>
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/meat alternates.	8 ounces or 1 cup.
<b>Vegetables and Fruits</b>	
Vegetable(s) and/or fruit(s) <sup>5</sup> .....	¾ cup total.
<b>Bread and Bread Alternatives<sup>6</sup></b>	
Bread or .....	1 slice.
Combread, biscuits, rolls, muffins, etc. or .....	1 serving. <sup>7</sup>
Cooked pasta or noodle products or .....	½ cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate .....	½ cup.
<b>Milk</b>	
Milk, fluid, served as a beverage .....	1 cup (½ pint, 8 fluid ounces).

<sup>1</sup> Must meet the requirements of appendix A of this part.  
<sup>2</sup> For the purposes of the requirement outlined in this table, a cup means a standard measuring cup.  
<sup>3</sup> Tree nuts and seeds that may be used as meat alternate are listed in program guidance.  
<sup>4</sup> No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 ounce of nuts or seeds is equal to 1 ounce of cooked lean meat, poultry or fish.  
<sup>5</sup> Serve 2 or more kinds of vegetable(s) and/or fruits or a combination of both. Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.  
<sup>6</sup> Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.  
<sup>7</sup> Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

(3) *Snacks*. The minimum amounts of food components to be served as snacks are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
<b>Meat and Meat Alternates</b>	
Lean meat or poultry or fish or .....	1 ounce.
Alternate protein products <sup>1</sup> or .....	1 ounce.
Cheese or .....	1 ounce.
Egg (large) or .....	½.
Cooked dry beans or peas or .....	¼ cup <sup>2</sup> .
Peanut butter or soy nut butter or other nut or seed butters or .....	2 tablespoons.
Peanuts or soynuts or tree nuts or seeds <sup>3</sup> or .....	1 ounce.
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/meat alternates.	4 ounce or ½ cup.
<b>Vegetables and Fruits</b>	
Vegetable(s) and/or fruit(s) or .....	¾ cup.
Full-strength vegetable or fruit juice or an equivalent quantity or any combination of vegetable(s), fruits(s) and juice.	¾ cup (6 fluid ounces).
<b>Bread and Bread Alternates<sup>4</sup></b>	
Bread or .....	1 slice.
Cornbread, biscuits, rolls, muffins, etc. or .....	1 serving. <sup>5</sup>
Cold dry cereal or .....	¾ cup or 1 ounce. <sup>6</sup>
Cooked cereal or .....	½ cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate .....	½ cup.
<b>Milk<sup>7</sup></b>	
Milk, fluid .....	1 cup (½ pint, 8 fluid ounces).

<sup>1</sup> Must meet the requirements in appendix A of this part.  
<sup>2</sup> For the purposes of the requirement outlined in this table, a cup means a standard measuring cup.  
<sup>3</sup> Tree nuts and seeds that may be used as meat alternates are listed in program guidance.  
<sup>4</sup> Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.  
<sup>5</sup> Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.  
<sup>6</sup> Either volume (cup) or weight (ounces), whichever is less.  
<sup>7</sup> Milk should be served as a beverage or on cereal, or used in part for each purpose.

(e) *Meat or meat alternate*. Meat or meat alternates served under the Program are subject to the following requirements and recommendations.

(1) The required quantity of meat or meat alternate shall be the quantity of the edible portion as served. These foods must be served in a main dish, or in a main dish and one other menu item.

(2) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but they may not be used to meet both component requirements in a meal.

(3) Enriched macaroni with fortified protein may be used to meet part but not all of the meat/meat alternate requirement. The Department will provide guidance to State agencies on the part of the meat/meat alternate requirement which these foods may be used to meet. If enriched macaroni

with fortified protein is served as a meat alternate it shall not be counted toward the bread requirement.

(4) If the sponsor believes that the recommended portion size of any meat or meat alternate is too large to be appealing to children, the sponsor may reduce the portion size of that meat or meat alternate and supplement it with another meat or meat alternate to meet the full requirement.

(5) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall not be used as meat alternates due to their low protein content. Nut and seed meals or flours shall not be used as a meat alternate except as defined in this section under paragraph (e)(3) and in this part under Appendix A: Alternate Foods for Meals.

As noted in paragraph (d)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement for lunch or supper. Therefore, nuts or seeds must be combined with another meat/meat alternate to fulfill the requirement. For the supplemental food pattern, nuts or seeds may be used to fulfill all of the meat/meat alternate requirement.

(f) *Exceptions to and variations from the meal pattern.*—(1) *Meals provided by school food authorities.*—(i) *Meal pattern substitution.* School food authorities that are Program sponsors and that participate in the National School Lunch or School Breakfast Program during any time of the year may substitute the meal pattern requirements of the regulations governing those programs (Parts 210 and 220 of this chapter, respectively) for the meal pattern requirements in this section.

(ii) *Offer versus serve.* School food authorities that are Program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The school food authority must apply this “offer versus serve” option under the rules followed for the National School Lunch Program, as described in part 210 of this chapter. The reimbursements to school food authorities for Program meals served under the “offer versus serve” must not be reduced because children choose not to take all components of the meals that are offered.

(2) *Children under 6.* The State agency may authorize the sponsor to serve food in smaller quantities than are indicated in paragraph (d) of this section to children under six years of age if the sponsor has the capability to ensure that variations in portion size are in accordance with the age levels of the children served. Sponsors wishing to serve children under one year of age shall first receive approval to do so from the State agency. In both cases, the sponsor shall follow the age-appropriate meal pattern requirements contained in the Child and Adult Care Food Program regulations (7 CFR part 226).

(3) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of

the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements are authorized: A serving of a starchy vegetable—such as ufi, tanniers, yams, plantains, or sweet potatoes—may be substituted for the bread requirements.

(4) *Individual substitutions.* Substitutions may be made by sponsors in food listed in paragraph (d) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statement shall be kept on file by the sponsor.

(5) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(6) *Temporary unavailability of milk.* If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(7) *Continuing unavailability of milk.* The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the milk components set forth in paragraph (d) of this section. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

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(8) *Additional foods.* To improve the nutrition of participating children, additional foods may be served with each meal.

[54 FR 18208, Apr. 27, 1989, as amended at 54 FR 27153, June 28, 1989; Amdt. 2, 55 FR 1377, Jan. 14, 1990; 55 FR 13470, Apr. 10, 1990; 61 FR 37672, July 19, 1996; 62 FR 10191, Mar. 6, 1997; 64 FR 72487, Dec. 28, 1999; 64 FR 72487, Dec. 28, 1999; 65 FR 12437, Mar. 9, 2000; 65 FR 82251, Dec. 28, 2000]

### Subpart D—General Administrative Provisions

#### § 225.17 Procurement standards.

(a) State agencies and sponsors shall comply with the standards prescribed in the Department's Uniform Federal Assistance Regulations at 7 CFR part 3015, subpart S, in the procurement of food, supplies, goods, and other services with Program payments.

(b) The State agency shall make available to sponsors information on 7 CFR part 3015.

(c) Sponsors may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds conform with provisions of this section, as well as with procurement requirements which may be established by the State agency, with approval of FNS, to prevent fraud, waste, and Program abuse.

(d) The State agency shall ensure that all sponsors are aware of the following practices specified in 7 CFR part 3015, with respect to minority business enterprises:

(1) Including qualified minority business enterprises on solicitation lists,

(2) Soliciting minority business enterprises whenever they are potential sources,

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by minority business enterprises,

(4) Establishing delivery schedules which will assist minority business enterprises to meet deadlines, and

(5) Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprise of the Department of Commerce as required.

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#### § 225.18 Miscellaneous administrative provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR part 3015), subpart N.

(b) *Termination for cause.* (1) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date, and shall allow the State 30 calendar days to respond. In instances where the State does respond, FNS shall inform the State of its final determination no later than 30 calendar days after the State responds.

(2) A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by the State agency that the sponsor has failed to comply with the conditions of the Program.

(3) When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may agree to terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligation properly incurred by the State agency prior to